

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA

_____	)	
UNITED STATES OF AMERICA,	)	
	)	
	)	
	)	
Plaintiff,	)	
	)	Civil Action No. _____
v.	)	
	)	Judge _____
SAUNDERS SUPPLY COMPANY	)	
INC., SAUNDERS SUPPLY	)	
COMPANY, HOWELL FAMILY	)	
LTD. PARTNERSHIP;	)	
TURPIN A. SAUNDERS,	)	
PARKER D. HOWELL III,	)	
and SAMUEL B. HOWELL,	)	
	)	
Defendants.	)	
_____	)	

**COMPLAINT**

Plaintiff, the United States of America, by and through the undersigned attorneys,  
by authority of the Attorney General and at the request of the Administrator of the United States  
Environmental Protection Agency (hereinafter "EPA"), alleges as follows:

**PRELIMINARY STATEMENT**

1. This is a civil action instituted pursuant to Sections 107 and 113 of the  
Comprehensive Environmental Response, Compensation and Liability Act, ("CERCLA") 42  
U.S.C. §§ 9607 and 9613, as amended, for reimbursement of response costs incurred by the  
United States in response to the release or threatened release of hazardous substances at the  
Saunders Supply Company, Inc. Superfund Site, Chuckatuck, Suffolk County, Virginia ("the

Site”).

### **JURISDICTION AND VENUE**

2. This Court has jurisdiction over the subject matter of this action pursuant to Sections 107(a) and 113(b) of CERCLA, 42 U.S.C. §§ 9607(a) and 9613(b) and 28 U.S.C. §§ 1331 and 1345.

3. Venue is proper in this judicial district pursuant to Section 113(b) of CERCLA, 42 U.S.C. § 9613(b) and 28 U.S.C. § 1391(b).

### **DEFENDANTS**

4. Saunders Supply Company, Inc. is a corporation organized under the laws of the state of Virginia and at all relevant times was doing business in this judicial district.

5. Saunders Supply Company is a domestic, general partnership and at all relevant times was doing business in this judicial district.

6. Howell Family Ltd. Partnership is a limited partnership organized under the laws of Virginia and at all relevant times was doing business in this judicial district.

7. Turpin A. Saunders is a resident of the Commonwealth of Virginia and resides in this judicial district. He is sued in his individual capacity.

8. Parker D. Howell III is a resident of the Commonwealth of Virginia and resides in this judicial district. He is sued in his individual capacity.

9. Samuel B. Howell is a resident of the Commonwealth of Virginia and resides in this judicial district. He is sued in his individual capacity.

### **GENERAL ALLEGATIONS**

10. The Site consists of approximately 7.3 acres located in Chuckatuck, Virginia.

The Site is comprised of property located at 5969 and 6019 Godwin Boulevard as well as a portion of down gradient property which lies contiguous and north of the 5969 and 6019 Godwin Boulevard property.

7. From 1951 to the present, Saunders Supply Company owned the 5969 and 6019 Godwin Boulevard portion of the Site.

8. From 1964 to 1973, Saunders Supply Company operated a wood treatment facility at the Site. As a result of these operations, the Site became contaminated with pentachlorophenol (PCP), chromium and arsenic.

8. From 1973 to 1991, the Saunders Supply Company, Inc. operated a wood treatment facility at the Site. As a result of these operations, the Site became contaminated with pentachlorophenol (PCP), chromium and arsenic.

9. From 1991 to the present, Saunders Supply Company, Inc. has operated a facility which sells building materials to residential contractors, commercial contractors, home remodelers and retail customers.

9. Turpin A. Saunders, Jr. is the corporate President and Director of Saunders Supply Co., Inc. and a partner in Saunders Supply Company. He has been involved with the Site for approximately 55 years. During this time, Turpin A. Saunders, Jr. directly participated in and managed the operation of the wood treatment facility.

10. The Howell Family Limited Partnership is a 50% partner of Saunders Supply Company and an owner of corporate shares of Saunders Supply Company, Inc.

11. Parker D. Howell III is a general partner in the Howell Family Limited

Partnership which owns 50% of Saunders Supply Company, Inc. and Saunders Supply Company.

He currently directly participates in and manages the operation of the facility at the Site.

12. Samuel B. Howell is a general partner in the Howell Family Limited

Partnership which owns 50% of Saunders Supply Company, Inc. and Saunders Supply Company.

He currently directly participates in and manages the operation of the facility at the Site.

13. In 1981, the Commonwealth of Virginia ("the State") began investigating an alleged PCP-like sludge near the Site. In March 1984, contaminated soil within a 30-foot diameter of the former conical burner was excavated to a depth of eight feet and placed in a landfill.

14. EPA proposed that the Saunders Supply Company, Inc. Site be listed on the National Priorities List ("NPL") in 52 Fed. Reg. 2492, dated January 22, 1987. The Site was placed on the NPL by publication in 54 Fed. Reg. 41015 - 41025, dated October 4, 1989.

15. Saunders Supply Company, Inc. began the Remedial Investigation/Feasibility Study (RI/FS). However, due to the Saunders Supply Company, Inc.'s financial inability, the EPA completed the RI/FS. The RI/FS was completed in May 1991. The Remedial Investigation found that the Site was contaminated with arsenic, chromium, copper, PCP and dioxin.

16. EPA issued a Record of Decision ("ROD") in September 30, 1991. Major components of the ROD included: excavation, dechlorination treatment and off-site disposal of the sediments from the wastewater pond and former earth separation pond at the Site, excavation, low temperature thermal desorption and off-site disposal of the Site soils and the sewer sediments, treatment of the ground water during the dewatering process, scarification of the top one inch of the concrete pads, cleaning and sliplining of the storm sewer, institutional controls to

prevent use of the ground water, and ground water monitoring.

17. EPA amended the ROD by issuing a ROD amendment on September 27, 1996. This amendment revised the treatment and disposal of the sediments from the wastewater pond to offsite incineration and disposal.

18. The contract for the remedial work was awarded on September 29, 1998 and the remedial work at the Site began on March 9, 1999. The construction was completed in November 1999.

19. In early 1996, during the remedial design phase, EPA detected the rapid and unpredictable migration of contaminated groundwater towards a nearby drinking water source. Due to high PCP levels observed in this groundwater, the EPA found a risk to human health and the environment. Consequently, EPA initiated a removal action to protect the public water supply and, after investigation, elected to install a pump and treat system. The construction of the groundwater treatment system was completed and the system was put on-line April 1, 1999.

20. EPA has conducted various "response" activities, as defined in Section 101(25) of CERCLA, 42 U.S.C. § 9601(25), in response to the release or threat of release of hazardous substances at the Site including oversight of the removal action.

21. As a result of releases or threatened releases of hazardous substances into the environment at the Site, the United States has incurred response costs as defined in Section 101(25) of CERCLA, 42 U.S.C. § 9601(25), and authorized by Section 104 of CERCLA, 42 U.S.C. § 9604, to respond to the release or threatened release of hazardous substances at the Site.

22. The response costs were incurred by the United States in a manner not inconsistent with the National Contingency Plan, 40 C.F.R. Part 300, promulgated under Section 105 of CERCLA, 42 U.S.C. § 9605.

23. As of March 20, 2002, the United States had expended over \$24 million in unreimbursed response costs to address the release and threat of release of hazardous substances at the Site.

#### **CLAIMS FOR RELIEF**

24. The allegations of Paragraphs 1-23 are realleged and incorporated herein by reference.

25. The substances identified in Paragraph 8, arsenic, chromium and PCP, are listed as hazardous substances at 40 C.F.R. Part 302, Table 302.4, and are, therefore “hazardous substances” as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

26. Each defendant is a “person” within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601 (21).

27. The Site is a “facility” within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

28. There has been an actual release or threatened release of hazardous substances, as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), into the environment at and from the Site within the meaning of Section 101(22) and 107(a) of CERCLA, 42 U.S.C. § 9601(22) and 9607(a).

29. The actions taken by the United States in connection with the Site constitute “response” actions within the meaning of Section 101(25) of CERCLA, 42 U.S.C. § 9601(25).

30. Defendant Saunders Supply Company was the owner of the Site at the time of the disposal of the hazardous substances at the Site and is currently the owner of the Site within the meaning of Sections 107(a)(1)&(2) of CERCLA, 42 U.S.C. §§ 9607(a)(1)&(2).

31. Defendant Saunders Supply Company is liable for response costs incurred by

the United States pursuant to Sections 107(a)(1)&(2) of CERCLA, 42 U.S.C. §§ 9607(a)(1)&(2).

32. Defendant Saunders Supply Company, Inc. was the operator of the Site at the time of the disposal of the hazardous substances at the Site and is currently the operator of the Site within the meaning of Sections 107(a)(1)&(2) of CERCLA, 42 U.S.C. §§ 9607(1)&(2).

33. Defendant Saunders Supply Company, Inc. is liable for response costs incurred by the United States pursuant to Sections 107(a)(1)&(2) of CERCLA, 42 U.S.C. § 9607(a)(1)&(2).

34. Defendant Howell Family Ltd. Partnership was the owner of the Site at the time of the disposal of the hazardous substances at the Site and is a current owner of the Site within the meaning of Sections 107(a)(1)&(2) of CERCLA, 42 U.S.C. §§ 9607(a)(1)&(2).

35. Defendant Howell Family Ltd. Partnership is liable for response costs incurred by the United States pursuant to Section 107(a)(1)&(2) of CERCLA, 42 U.S.C. §§ 9607(a)(1)&(2).

36. Defendant Turpin A. Saunders was the operator of the Site at the time of the disposal of the hazardous substances within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2).

37. Defendant Turpin A. Saunders is liable for response costs incurred by the United States pursuant to Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2).

38. Defendant Parker D. Howell III is the operator of the Site within the meaning of Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

39. Defendant Parker D. Howell III is liable for response costs incurred by the United States pursuant to Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

40. Defendant Samuel B. Howell is the operator of the Site within the meaning of

Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

41. Defendant Samuel B. Howell is liable for response costs incurred by the United States pursuant to Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

42. Defendants are jointly and severally liable for all response costs incurred and to be incurred and for response actions taken or to be taken to address the release or threat of release at the Site.

**PRAYER FOR RELIEF**

WHEREFORE, the United States prays that this Court:

1. Enter judgment in favor of the United States and against defendants, jointly and severally, for costs incurred by the United States for the previously identified response actions related to the Site, to the extent not otherwise reimbursed, including prejudgment interest;
2. Enter a declaratory judgment as to defendants' liability that will be binding in future actions to recover further response costs connected with the cleanup and response actions at the Site;
3. Award the United States its costs of this action; and,
4. Grant such other and further relief as the Court deems just and proper.



Respectfully submitted,

Dated \_\_\_\_\_

PAUL J. McNULTY  
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By: \_\_\_\_\_

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